

IN RE ARBITRATION BETWEEN:

LAW ENFORCEMENT LABOR SERVICES

and

NICOLLET COUNTY

DECISION AND AWARD OF ARBITRATOR

BMS CASE # 06-PN-0903

JEFFREY W. JACOBS

ARBITRATOR

November 1, 2006

IN RE ARBITRATION BETWEEN:

Law Enforcement Labor Services,

and

DECISION AND AWARD OF ARBITRATOR
BMS CASE # 06-PN-0903

Nicollet County, Minnesota

APPEARANCES:

FOR THE UNION:

Jack Chambers, Law Enforcement Labor Services

FOR THE EMPLOYER:

Pam Galanter, Frank Madden and Associates

PRELIMINARY STATEMENT

The parties were unable to resolve certain issues concerning the terms of the collective bargaining agreement and requested mediation from the Bureau of Mediation Services. Negotiation sessions were held and the parties negotiated in good faith but were ultimately unable to resolve certain issues with respect to the labor agreement. The Bureau of Mediation Services certified 6 issues to binding interest arbitration pursuant to Minn. Stat. 179A.16, subd. 7 by letter dated May 24, 2006..

Prior to the hearing the parties were able to resolve the following issues: Issue No. 5 – Part Time Holiday Pay – Article 25. The Union also clarified its position regarding the Uniform issue and indicated that the Union is not seeking a change in the amount of the uniform allowance. Rather the Union seeks a change in the method by which it is paid.

A hearing in the above matter was held on September 20, 2006 at the Nicollet County Courthouse in St. Peter, Minnesota. The parties presented oral and documentary evidence at that time and the parties were granted one week to submit additional information regarding shift differential. Post-hearing Briefs were mailed on October 6, 2006 and, due to the Columbus Day mail holiday, received by the arbitrator on October 10, 2006 at which time the hearing was considered closed.

ISSUES PRESENTED

The issues certified at impasse and in dispute at the time of the hearing are as follows:

1. Shift Differential – New
2. Shift Supervisor Pay, level of compensation when acting as shift supervisor – New
3. Field training Officer Pay –compensation when assigned as Field Training Officer – New
4. Compensatory Time – Maximum Level – Article 12
5. Part-time holiday – (Resolved by the parties as noted above)
6. Uniforms – Payment System as noted above (Union did not seek a change in the amount of compensation but rather seeks an award altering the current voucher system to one in which the employees are paid by cash once per year.

PRELIMINARY DISCUSSION

The Union asserted in various places in its presentation and brief that interest arbitration should ideally be a substitute for what the parties would have negotiated following a strike. Some arbitrators apparently support this notion while others believe that interest arbitration is to determine what the parties would have voluntarily negotiated for themselves. Both frankly are a bit of a crapshoot in terms of their exactitude and require some gazing into the crystal ball based on limited information.

In fact both standards may be fairly close in terms of what would be the end result. Public essential employees are not allowed to strike under PELRA. Instead they are to proceed to good faith negotiations and then if that fails to produce a settlement of the contract, to interest arbitration.

Obviously one of the essential differences between the public sector and the private is that typically, although certainly not always, the end of the contract in the private sector means that without agreement there will very likely be a strike. There is thus far more incentive for parties to settle the contract in order to continue operations. Strikes generally are very expensive for both sides and it is debatable whether that which is lost is ever fully recovered.

In the public sector it has long been held that the expiration of the contract does not result in a strike or other work stoppage but rather results in the continuation of the contract, even for non-essential employees. These employees simply work under the terms and conditions of the expired contract until a new one is signed. Any appropriate back pay or adjustments are made when the contract is fully executed and ratified.

The point of this is to illustrate that strikes are not things people enter into lightly and are generally over things that are so major that the parties determine that “all else has failed” and that the strike is the only way to resolve the unresolvable. Simply stated, it is quite possible in the public sector to gain matters in interest arbitration that would never be items over which a Union, especially one as competently operated as this one, would ever recommend a strike. It is therefore exceedingly unlikely that the Union would have struck, even assuming state law would allow it, over any of the items at impasse here. Thus, the best measure of the appropriate award in this matter is what the parties would have negotiated; not what a strike would have yielded.

It is against this backdrop that the determination of the individual items at impasse proceeds.

SHIFT DIFFERENTIAL

UNION'S POSITION:

The Union seeks an award adding a shift differential to the contract as follows: “Shift differential. An employee that works between the hours of 6:00 pm and 6:00 am shall be paid an additional \$0.50 per hour for any and all hours worked.” In support of this the Union made the following contentions:

1. The Union noted that Nicollet County is a part of Minnesota Economic Region 9 comprised of 8 other counties located in approximately the same general geographic location as Nicollet County. The Union also noted that 3 of those nine, namely Brown, Waseca and Watonwan have a shift differential in their labor agreements in varying amounts.

2. The Union also noted that the cost of this benefit would be minimal, i.e. about \$5,694.00. The County could easily afford this very small amount of additional cost.

3. In addition, the Nicollet County deputies have on-call pay compensating them for being called out during odd hours. The deputies do not work a 24/7 shift but are on call during the nighttime hours. The Union seeks a similar benefit for the jailer/dispatchers covered by this unit.

4. The Union countered the County's argument that it had sought this in prior contracts but was unsuccessful in gaining that benefit. Failure to gain benefit in one round of negotiations does not preclude the issue from being brought up in the future. The fact that it has simply demonstrates how important this issue is to the employees in this unit.

5. The Union cited an article from a recent issue of the Minneapolis Star Tribune on sleep disorders and the effect shift work can have on employees working this shifts. The Union argued that human sleep patterns are genetically and biologically tied to daylight. When that is disturbed or when humans are required to work during a time when they are "programmed" to be asleep, it causes stress to the system. This in turn can cause physical and even psychological problems.

6. The Union contends that this article and others written on the same subject show that it is well established that working night shifts becomes more difficult as one ages and increases potential for more errors. The Union argued that "errors" in police work can be very serious indeed, even fatal.

7. Even the physicians and medical experts who drafted this article note that it is common to compensate workers who perform night shift work in order to pay them something to account for the disturbance in their sleep patterns.

8. The essence of the Union's argument is that several of the comparable units externally have shift differential and that internally the deputies have a similar type of benefit. Moreover, the dangers of shift work are well known in the medical literature and employees who must work these shifts should in all fairness be compensated for having to work shifts that disturb natural sleep patterns and can lead to health concerns as well as work related concerns.

The Union seeks an award adding the language cited above in the contract.

COUNTY'S POSITION

The County's position is for no change in the contract. In support of this position the County made the following contentions:

1. This item was brought up by the Union in the first round of bargaining and it was not included in the contract. There has further never been a shift differential paid to jailer/dispatchers in Nicollet County. Moreover, none of the non-Union employees receive it as well so there is literally no precedent for a shift differential in this County.

2. The deputies receive on call pay but that is very different from a shift differential. The County argued that the deputies do not work a 24/7 shift but must be available for call out if needed. In that event, they are paid on-call pay. The jailer/dispatchers on the other hand know when they are hired that the nature of this job requires shift work; the County argued that this should come as no surprise to them.

3. The County also noted that, contrary to the Union's assertion, only 2 of the Region 9 Counties provide shift differential. Watonwan provides a weekend premium; which is very different from a shift differential. Moreover, the County asserted that a comparison to counties outside of Region 9 would be highly inappropriate. In fact Arbitrator Paull specifically noted in his decision between these parties that Region 9 counties were the appropriate comparison group. Thus any comparison to the rest of Minnesota Counties would be simply highly irregular.

4. The County argues that in reality, a shift differential is merely a request for an increase in wages. Yet here the unit has already agreed, as have the other units, to the wage increase for the current agreement. The County asserted that the wages and total compensation package for these employees compares very favorably to the Region 9 counties. In fact, Nicollet County is one of the few remaining public employers to pay 100% of the employee health insurance costs.

5. The County further asserted that there are currently no problems in attracting or retaining new employees to work in this unit. As noted above, the people who sign up for the job know its nature. There is thus no compelling need to add new language to the contract, as is generally required by interest arbitrators throughout the State of Minnesota and historically over time.

6. The County argued that even the author of the sleep deprivation article does not advocate for additional money for such workers. The County argues too that a shift differential does not alleviate the underlying concerns about sleep pattern disruption; it merely adds cost to the County for that shift. Thus it does not solve the “problem” if any raised by the Union.

7. The County asserted most strenuously though that the deputies do not receive shift pay. To grant them that benefit would create a huge disparity in benefits from one unit to the other. It is highly unusual to provide shift differential to one group of shift workers and not for another.

8. The essence of the County’s argument thus is that there is not and never has been a shift differential pay for any shift worker in Nicollet County. Certainly; to grant such a benefit to one group of shift workers and not another would set up a disparity between the deputies and the jailer/dispatchers and could well result in considerable disharmony in labor relations within the County. Moreover, there is little precedent for shift differential externally. Seven of the nine comparison Counties do not provide that differential. The Union has thus not provided any evidence, much less the compelling sort of evidence necessary, to establish a rational basis for such a radical change in the contract.

The County seeks an award for no change in the contract.

MEMORANDUM AND DISCUSSION OF SHIFT DIFFERENTIAL

The County’s arguments on these facts have greater merit. Initially, it is noted that externally only two of the nine Region 9 counties only 2 have a true shift differential. There was no evidence introduced as to why these counties have that benefit or what if any negotiations led to the inclusion of that benefit in those contracts. Seven of the nine Region 9 counties do not. Thus the greater weight of the evidence shows that the external comparisons do not support the Unions position here. Further, it should be noted that the appropriate comparison group for Nicollet County is the Region 9 group. A comparison to the rest of the 87 counties in Minnesota here would be inappropriate and was not done in order to arrive at this decision.

Internally, the evidence showed that the deputies, also represented by LELS, do not have a shift differential per se but rather an on call benefits. This however is due to the very different nature of their work. They may well work a night shift but are not on the road 24/7. This is not uncommon in out state Counties. The deputies are called out as needed to respond to emergencies and the like that may occur at odd hours. For this they are paid on call pay.

The County argued that the appropriate comparison is that both sets of employees perform shift work yet neither gets shift pay. The comparison was not completely accurate for the reasons noted above; the jailer/dispatchers work a shift that is very different from the deputies and truly do work shift work. The question then is whether there is something that would provide a compelling reason to add a shift differential to the contract.

Initially, the basis for the Union’s claim is that they should get something like on-call pay for the deputies. This argument has insufficient support from the evidence. As noted by most arbitrators dealing with interest arbitration matters, in order to add a benefit such as this a labor agreement there should be a showing of a compelling need or that there is some quid pro quo for doing so. Here there was not. The Union's argument is really that these employees should get a differential since the deputies get on call pay. That alone was not enough to carry the day for the Union’s argument.

Finally, the Union argued that a differential should be paid to compensate officers for the disruption caused to their sleep patterns and health due to shift work. The articles cited provided some basis for this. However, law enforcement work is work that requires shift work and people entering that profession know that when they chose it as a career. It is also clear that Nicollet County has not had shift differential for these employees so anyone taking a job either knew or clearly should know that this is not a benefit they get when they work for the County. Whether they should or not is a different matter but suffice it to say that there is no expectation of a shift differential as people enter that position. Accordingly, while the information presented by the Union regarding the health concerns in shift work was an interesting piece it did not provide the sort of evidence on this record necessary to compel the addition of shift differential language in the agreement.

AWARD ON SHIFT DIFFERENTIAL

The County' position is awarded.

SHIFT SUPERVISOR PAY

UNION'S POSITION:

The Union proposes to add new language to the agreement as follows: "Shift supervisor. The seniormost employee shall receive an additional \$0.50 per hour for any and all hours worked without a supervisor on duty." In support of this position, the Union made the following contentions:

1. Minnesota DOC Rules section 2911.0900, subdivision 8 requires that the "staff person in charge of the facility must be designated in charge at all times in the absence of administrative staff from the facility. (Mandatory)." The Union pointed out that while the County follows this rule it does not compensate the person so designated as "in charge" as if they are in fact "in charge."

2. The Union argued that this is in essence working out of class for the person designated as the supervisor. The Union further argued that it is universally recognized that a person working out of class should be compensated at the higher rate of pay for doing the work in that category.

3. Here when administrative staff are not available to supervise the jail or dispatch center, the most senior person is designated as the supervisor. This obviously entails a supervisory level of responsibility and the employee assigned to take on this job and this responsibility should be compensated for doing so.

4. The Union asserted that the cost of providing this compensation would again be minimal and would be less than \$3,400.00 annually.

5. The Union pointed to other counties in the Region 9 comparison group and noted that at least 2 of them have a provision in their labor agreements providing either for shift supervisors on duty or for compensation for the employees who are required to act in that capacity in the absence of supervisory staff on duty.

The Union seeks an award adding the new language to the contract.

COUNTY'S POSITION:

The County was opposed to this change and sought an award for no change in the labor agreement. In support of this position, the County made the following contentions.

1. The County again pointed to the deputy contract, also represented by LELS, as supportive of its position. The deputies do not have a similar provision in their contract. Moreover, they are in a similar position in that they are many times required to work when there is no shift supervisor on duty.

2. The County also argued that a shift supervisor is always available by phone in the event of a question or emergency and can be reached 24 hours a day. The County thus argues that there is no more need for supervisor pay for the jailer/dispatchers than for the deputies.

3. Externally, only Blue Earth County provides pay for the senior jailer who must serve in a supervisory capacity. This is only when a ranking officer is not on duty. The County argues that this language is quite broad and could well mean that it applies only when there is no licensed officer on duty. It may thus not even apply to Nicollet County's situation.

4. Waseca County has a provision for transfers to a higher paid classification. This is therefore not an analogous situation but rather refers to working out of classification and does not apply to a shift supervisor, as is the case here.

5. The County also argued that there must again be a compelling showing of a need for the proposed change. Here the Union made no such showing. No problems have been reported and if there is one, a deputy can be easily and quickly called to assist. As noted above, shift supervisors are on call 24 hours a day and can again respond quickly if there is a need.

The County seeks an award for no change in the current language.

MEMORANDUM AND DISCUSSION OF SHIFT SUPERVISOR PAY

This was a somewhat closer call in that the evidence showed that the line employees are serving in what is in essence a supervisory capacity when there are no administrative or supervisory personnel on duty. Externally, there is very little support for the provision of shift supervisor pay. Blue Earth County apparently has a provision requiring the payment of \$2.35 per hour in 2006, \$2.50 in 2007 where the employee is "assigned as lead worker when a ranking officer in the Sheriff's department is not on duty." This provision is not as vague as the County asserts in that it appears to require the payment of a premium where the employee is assigned as a lead worker. No evidence was presented as to what exactly a lead worker is in Blue Earth County. Even if that is analogous to working as the shift supervisor, the evidence showed that only Blue Earth County has such a provision. Accordingly, there is little support externally for this economic change.

Internally there is some merit to the County's argument that the deputies do not have a similar provision to that which is being proposed and yet are also required to work without a supervisor on duty. Moreover, there was little evidence presented on what actual supervisory duties the employees were performing. The Rule cited by the Union can well mean that someone must be designated as "in charge" of the shift in case of an emergency. That in and of itself does not mean they are performing supervisory duties, such as scheduling, disciplinary matters or the like. It may well mean that someone must make the decision as to what to do in the event of an emergency and other law enforcement personnel must be called. The evidence did show that supervisory staff are on call at all times to consult in such situations. See e.g., *St. Louis County and AFSCME #5*, BMS Case # 04-PN-1308 (2005 Jacobs) (there the Union requested pay for working in charge of the facility. The evidence showed there that the employees so designated were not performing true supervisory duties however).

Here without more evidence as to the exact nature of the duties being performed there is insufficient support for a change of this nature. Further, there is merit to the County's argument that there is no provision for the deputies even though they are in a similar situation. To make this change could well create disharmony within similarly situated units by providing for a benefit to one group while not to another. This is something the parties should negotiate for themselves and absent a compelling showing of a need for it, should not be awarded in interest arbitration.

AWARD – SHIFT SUPERVISOR PAY

The County's position is awarded.

TRAINING OFFICER PAY

UNION'S POSITION:

The Union requests a new provision as follows: "Any employee assigned as a training officer for new employees shall receive an additional one (1) hour compensatory time for each shift worked performing training officer duties." In support of this the Union made the following contentions:

1. Training of corrections officers is required by the State Department of Corrections, DOC. DOC also requires that each law enforcement agency must have a designated training officer. In Nicollet County that person is the Jail Administrator. However he assigns other employees this responsibility thus making them the training officers as required by DOC.

2. Training is not a duty listed in the job descriptions of jailers. Thus the assignment to perform training duties is an additional duty assigned by the County and as such should be compensated by the payment of an additional hour of compensatory time for each shift spent performing training duties.

3. The Union asserts that this is not only eminently fair since the officers are in fact performing extra duties but also reasonable since the cost of an additional hour of compensatory time would be minimal at best.

The Union seeks an award adding the contract language set forth above.

COUNTY'S POSITION:

The County is opposed to this and in support of its position made the following contentions:

1. Not a single one of the Region 9 counties provides training pay for officers assigned to perform training for new officers. Therefore there is no external comparison for this.

2. Training new officers is not a new concept and has been part of the assignment for jailers for many years. Thus any person hiring on knows that they may be assigned training duties. Nicollet County is small enough that it simply does not have the staff necessary to designate a training officer, as do larger counties with a larger staff and budget.

3. Moreover, there is no internal support for this new economic item. The deputies do not receive this compensation either and yet are assigned to perform training duties as well from time to time.

4. While the job description does not include a specific item for training, it does contain the clear requirement to perform duties "as assigned" by the Jail Administrator. Moreover, there was no evidence to show that the County was out of compliance with any of the DOC requirements nor was there any evidence to support the compelling need to provide this compensation for these duties.

The County seeks an award for no change in the contract.

MEMORANDUM AND DISCUSSION OF TRAINING PAY

The evidence again showed that the deputies also perform training and yet do not receive additional pay for doing so. There is also apparently no other unit within the County that receives training pay or an analogous sort of pay. Thus internally there is little support for the Unions claim

Externally the picture is about the same. No other Region 9 County has training pay for any of their officers or deputies.

The Union's claim is based on the argument that this is in effect additional pay for additional work and is tantamount to working out of classification when the officers are assigned training duty. The job description does not contain a specific entry for training but is rather simply an assigned duty by the Jail Administrator. There is some logical merit to this claim but there is insufficient showing of a compelling need to add this new item to the contract on these facts. The evidence showed that the jailer/dispatchers are aware that they may be assigned various duties, some of which are listed specifically on the jailer/dispatcher job description and some of which may not. Here the evidence supports the County's claim that this is one of the types of duties that is expected in this County and which is part of the other duties "as assigned." Without a greater showing of a compelling need for the addition of this item at this time, the County's position must be awarded.

AWARD ON TRAINING OFFICER PAY

The County's position is awarded.

COMPENSATORY TIME – ARTICLE 12.6

UNION'S POSITION:

The Union seeks to increase the maximum accumulated compensatory time from the current 40 hours to 100 to make that consistent with the maximum allowable accrual of compensatory time for the non-Union employees within the department. In support of this position the Union made the following contentions:

1. The Union asserts that it is seeking only what the non-Union employees have for their compensatory time. The current maximum accrual rate is 40 hours and even though the County has agreed to raise that to 60, the Union argued that the non-Union positions of Jail Administrator, sheriff, Chief Deputy, Sheriff's Secretary, Jail Programmer and Investigators all are allowed to accrue 100 hours. The Union argues that this is a matter of fundamental fairness and equity and that it is not equitable that the non-Union staff should be allowed to accrue a greater amount of compensatory time than the line employees.

2. Externally, five of the nine Region 9 counties have current caps above 40 hours. Faribault County even has an accrual currently of 100 hours. Several others have accrual maximums of 80 hours.

3. The Union argued that the County's assertion that they do not have to "back fill" the spots is irrelevant and does not detract from the fact that the supervisory personnel listed above have a dissimilar benefit from the unit employees.

The Union seeks an award allowing a maximum compensatory time accrual of 100 hours as set forth above.

COUNTY'S POSITION:

The County opposes this change and took the position that the accrual rate should increase to 60 hours, not the 100 hours the Union is seeking. In support of this position, the Union made the following contentions:

1. The County looked first internally and noted that the deputies voluntarily agreed to an accrual maximum of 60 hours in the current round of bargaining. The County also asserted that it would be inequitable to have a different accrual rate between very similar bargaining units.

2. The County also asserts that there is a fundamental difference between the jailer/dispatcher employees covered by the agreement and the supervisory staff listed above as far as the need to fill the shifts. When a bargaining unit employee is out on leave, the shifts must then be filled with other employees. The County argued that the difference is that shifts opened by the supervisory staff; such as the Sheriff or Jail Administrator for example, do not. Thus, if the County fills the vacated shift with another employee who then quite probably receives overtime pay for filling that shift, the County is essentially paying twice for that shift.

3. The County pointed to this essential difference as justifying the greater maximum accumulation of compensatory time for the non-Union employees, i.e. because their shifts do not need to be vacated. Allowing the maximum accrual to go to 100 would simply add needless cost to the County's payroll and becomes a "never ending cycle."

The County seeks an award increasing the maximum accrued compensatory time to 60 hours.

MEMORANDUM AND DISCUSSION OF COMPENSATORY TIME – ARTICLE 12.6

This again is a closer call than it might at first appear. Both parties made valid and cogent arguments in support of their respective positions on this item. The Union is correct that the non-Union employees listed above are allowed to accrue 100 hours of compensatory time. Moreover, the County's argument that these shifts do not need to be filled if they are vacated is not a compelling argument on these facts. The fact that the County does not fill the positions if a non-Union employee is gone is done largely for the benefit of the County only and does not change the fact that they receive a greater maximum accumulation of compensatory time than the bargaining unit employees. The County did not provide a compelling argument for how this would result in any additional cost. Moreover, the County has the ability to schedule its employees and there was no evidence provided by the County that it would not be able to staff properly in order to keep down overtime costs. Thus the County's argument on this point rings a bit hollow.

Externally it appears that only Faribault County has an accumulation of 100 hours. Brown and Le Seuer Counties have no provision at all while Waseca and Watonwan have provisions of up to 80 hours. Blue Earth has 40 while Sibley and Martin Counties have 60. Externally the maximums are varied and provide another good example of why it is generally not appropriate to compare fringe benefits like this across jurisdictional boundaries given the varied nature of how and why those provisions are what they are. At the very least, it is clear that there is no clear pattern.

The most compelling piece of evidence on this record is thus what the deputies voluntarily negotiated. Here the deputies negotiated and settled for a 60 hours maximum accrual. The record showed that the deputies too sought a maximum accrual of 100 hours but eventually settled for 60. The evidence also showed that the accrual rates for the two units have always been the same. The best evidence of what the parties would have negotiated for themselves is thus what the parties have already voluntarily negotiated for another similarly situated bargaining unit in the same County working in the same general department represented by the same Union. Here, that is 60 hours.

It was apparent that this unit seeks to be compared to the supervisory non-union staff rather than to the more similarly situated Union employees working within the Sheriff's Department. On these facts the latter comparison is more appropriate. Certainly, there are quite legitimate arguments to be made that this should be higher however this must be left to the next round of bargaining and should not be disturbed by interest arbitration here.

AWARD ON COMPENSATORY TIME

The County's position is awarded, the maximum accrual for compensatory time shall increase to 60 hours as set forth in Article 12.6.

UNIFORM - PAYMENT SYSTEM

UNION'S POSITION:

The Union initially indicated that it did not wish to change the reimbursement amount from its current \$525.00 per year and indicated that this should remain as it appears in the current agreement. The Union did however seek to change the contract to provide for the cash payment on a one time per year basis without the necessity of providing a voucher for reimbursement as follows: “during second and subsequent years of continuous employment, each full time employee will be allotted a maximum clothing allowance of \$525.00. The clothing allowance shall be prorated for employees who have not completed twelve months of continuous employment by January 1. Payment for such allowance shall be made to the employee the first pay period in January in check form.” In support of this the Union made the following contentions:

1. The Union argued that this request is to make the payment system consistent with other internal employees. Currently, the Sheriff, Under Sheriff, Jail Administrator, Sheriff's Secretary, Investigators and Jail Programmers are paid by check once per year without the necessity of a voucher.

2. The Union argued that the quid pro quo for this request is to forego any increase in the allowance, currently \$525.00 per year, in exchange for this. The Union asserted that this is a substantial concession since it is anticipated that the cost of uniforms will increase by 3 to 5% over the next few years. See Union Tab #6.

3. Externally, even though Nicollet County's reimbursement amounts are somewhat higher, they have traditionally been and in reality should go up. The Union proposes to keep them at their current level in exchange for this minor change in contract language.

The Union seeks an award changing the language altering the voucher system to one where the employees receive a one-time payment per year for the reimbursement amount.

COUNTY'S POSITION:

The County opposes this change and seeks an award leaving the current language in place. In support of this position the County made the following contentions:

1. Currently the deputies also have a voucher system that is a part of their voluntarily negotiated contract. Despite the Union's repeated attempts to compare themselves to the supervisory personnel within the Sheriff's Department, in fact they are best compared to the deputies insofar as their wages and benefits are concerned.

2. Moreover, the current system was negotiated to replace a cash payment system. Prior to the initial collective bargaining agreement, the jailer/dispatchers received a cash payment for their uniforms. The Union sought and received a significant increase in that uniform allowance in exchange for the voucher system currently in place. That was the quid pro quo for the higher uniform allowance. The County argued that the Union is merely attempting to go back on that agreement now by asking to return to the old cash payment system but to leave the higher benefit in place.

3. Externally, the County pointed to the level of uniform allowance in Region 9 and noted that only 5 of the 9 appear to have it all. Moreover, Nicollet County is far higher than any other County in the comparison group and higher than the average.

4. The deputy unit also requested this change, i.e. to change the voucher system and return to the cash payment system in the 2006 2007 round of bargaining. The deputy unit eventually withdrew that request and settled on the current voucher system. It would be highly inappropriate to change this now for the jail/dispatcher unit at his time.

The County seeks an award leaving the current language of Article 24 in place.

MEMORANDUM AND DISCUSSION OF UNIFORM ALLOWANCE

The Union withdrew its request for an increase from the current level of \$525.00 per year. The change requested is for a change from the current voucher system to one requiring a cash payment of the entire amount once per year to the affected employees. The main argument is that the supervisory employees receive this benefit and that the bargaining unit employees should as well.

Several matters mitigate against the Union's assertion. First, the best comparison group internally is the deputy unit. While it is not always the case, generally an internal comparison should proceed to what the other represented employees are getting and to compare that to the benefits for the unit under consideration. Here it is clear that the supervisory employees listed above get a cash payment, as did these employees apparently prior to the negotiation of the collective bargaining agreement. Here however, the deputy unit operates pursuant to the same voucher system and signed their agreement for 2006–07 without a change in that system. This factor weighed very heavily in the determination of this issue.

Moreover, the evidence showed that the level of the uniform allowance *was* a quid pro quo for the voucher system. The Union received a higher uniform allowance in exchange for the voucher payment system. The evidence of the external comparison supports this claim at least insofar as the increased amounts are concerned. Here while the Union offered to withdraw any request for an increase from the current \$525.00 per year level, even doing so would leave the County well ahead of the comparison counties.

There is thus merit to the County's argument that this appears to be an attempt to return to the old system without a sufficiently large enough quid pro quo in return. For the reasons state above, it is determined that the Union has not produced sufficient evidence of a compelling argument in support if the requested change. Accordingly, the County's position is awarded.

AWARD ON UNIFORM ALLOWANCE

The County's position is awarded.

SUMMARY OF AWARD

AWARD ON SHIFT DIFFERENTIAL

The County's position is awarded.

AWARD ON SHIFT SUPERVISOR

The County's position is awarded.

AWARD ON TRAINING OFFICER PAY

The County's position is awarded.

AWARD ON COMPENSATORY TIME

The County's position is awarded, the maximum accrual for compensatory time shall increase to 60 hours as set forth in Article 12.6.

AWARD ON UNIFORM ALLOWANCE

The County's position is awarded.

Dated: November 1, 2006

Jeffrey W. Jacobs, arbitrator